

No. 9/7/86-6Lab./7461.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of (i) Director, Health Services, Haryana, Chandigarh, (ii) Secretary, District Red Cross Society, Sirsa.—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK.

Reference No. 75 of 1985

between

KRISHNA KUMARI WORKMAN AND THE MANAGEMENT OF (I) DIRECTOR,
HEALTH SERVICES, HARYANA, CHANDIGARH, (II) SECRETARY,
DISTRICT RED CROSS SOCIETY, SIRSA.

Present :—

Shri H. S. Smagh, A. R. for the workman.

Shri S. S. Goyal, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Krishna Kumari and the management of M/s (i) Director, Health Services, Haryana, Chandigarh, (ii) Secretary, District, Red Cross Society, Sirsa, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 21142-43, dated 14th May, 1985:—

Whether termination of services of Krishna Kumari is justified and in order? If not, to what relief is she entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that she was appointed as Lady Social Worker in the year 1961 and remained employed as such upto 23rd February, 1983 and that the respondent chose to terminate her services without any prior notice or payment of any retrenchment compensation as envisaged under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). *Inter alia*, it is alleged that her service record has been commendable throughout. So, she has prayed for reinstatement with continuity of service and full back wages.

3. There are two respondents to this case. First respondent is Director, Health Services, Haryana, Chandigarh and the second Secretary, District Red Cross Society, Sirsa. Replies have been filed by both these respondents. In the reply filed by the Red Cross Society, it is admitted that the petitioner was employed as a Lady Field Social Worker in Family Planning Centre, Hisar by the District Red Cross Society, Hisar on 8th December, 1961, on purely temporary basis and as per stipulation in her appointment letter her services could be dispensed with at any time after giving one month's notice. It is further alleged that since the Haryana Government stopped giving grant for the Family Planning Centre, Dabwali where the petitioner was appointed, the answering respondent had no option but to dispense with the services of the petitioner. It is further alleged that the petitioner was guilty of dereliction in her duties. So, the family planning targets could not be achieved and so, the grant to the Dabwali Centre was stopped. In the same vein, it is alleged that the petitioner's services were dispensed with after prior one month's notice and that the respondent is not an "industry" as defined in section 2(j) of the said Act. Additional plea projected is that the reference is bad in law and that since the services of the petitioner were terminated as grant to the Dabwali Family Planning Centre was stopped, this reference is not maintainable.

4. On the pleadings of the parties, the following issues were settled for decision by me on 21st November, 1986 :—

- (1) Whether the respondent in this case by the appropriate authority which made reference of the dispute to this Court?
- (2) Whether the reference is bad in law?
- (3) As per terms of reference.

5. The petitioner herself appeared as WW-1 and the respondent examined MW-1 Shri Radha Krishan, Assistant Secretary, District Red Cross Society, Sirsa. No evidence was adduced on behalf of the respondent No. 1.

6. The learned authorised representatives of the parties heard. My findings on the issues framed are as below :—

Issue No. 1—

7. This issue is not happily worded and does not embrace the pleas taken by the respondent. The plea of the respondent was that no reference is maintainable against respondent number 1, because no order of termination was passed by it. So, it is held that no reference against respondent number 1 was maintainable.

Issue No. 2—

8. Issue number 2 was not pressed on behalf of the respondent number 2. So, the same is answered against the respondent.

Issue No. 3—

9. On behalf of the respondent number 2 Shri Goyal forcefully contended that since the posting of the petitioner was only at the Family Planning Centre, Dabwali, which Centre was closed, because the Government of Haryana stopped sending grant for running the said Centre, the respondent number 2 had no option but to dispense with the services of the petitioner. He further contended that the said Centre was closed because of the non-performance of duties by the petitioner and when the said Centre did not achieve the target, the Government of Haryana stopped sending grants for running the said Centre. MW-1 an official of the respondent number 2 admitted in the Court that two Family Planning Centres, one at Sirsa and another at Dabwali were being run by the Red Cross Society, Sirsa under a common scheme and that these Centres were fully funded by the Government of Haryana. If the Centre at Dabwali was closed, there was no justification to dispense with the services of the petitioner specially when the Lady Social Worker posted at Sirsa Centre was junior to the petitioner. This too is admitted by Shri Radha Krishan, Assistant Secretary of the respondent number 2 at Sirsa. Even if, for the sake of argument, it be admitted that the Centre at Dabwali was closed, because of the fact that the petitioner was not performing her duties dutifully, even then her services could not have been terminated without giving her prior one month's notice and retrenchment compensation as envisaged under section 25F of the said Act. Prior one month's notice was given but admittedly no retrenchment compensation was paid to her. So, also, order of termination cannot be sustained being violative of the provisions of section 25F and 25G of the said Act. Under these circumstances, order of termination is set aside. Now, the question of back wages survives. Services of the petitioner were dispensed with on 28th February, 1983. Unfortunately, there is no date on the demand notice received along with the order of reference. So, this Court cannot calculate the delay in raising the same by the petitioner. In any case, the same were raised within two years of her termination, because the order of reference is dated 14th May, 1986. Delay for less than three years has not been viewed adversely by the Court. So, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

B. P. JINDAL.

Dated the 29th August, 1986.

Presiding Officer,
Labour Court, Rohtak.
(Camp Court, Sonapat).

Endst. No. 75-85/1190, dated the 5th September, 1986

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
(Camp Court, Sonapat).